



State of Tennessee
Department of State

Administrative Procedures Division
312 Rosa L. Parks Avenue
6th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243-1102
Phone: (615) 741-7008/Fax: (615) 741-4472

April 24, 2024

Restoration Southside Church
3146 Broad Street
Chattanooga, TN 37408
Sent via email only to:
admin@restorationsouthside.org

Randy Johnston
Hamilton County Assessor
6135 Heritage Park Drive
Chattanooga, TN 37416
Sent via email only to:
rjohnston@hamiltontn.gov

Robin Pope
Executive Director, State Board of
Equalization
Cordell Hull Building
425 Rep. John Lewis Way North
Nashville, TN 37243
Sent via email only to: Address on File

RE: IN RE: RESTORATION SOUTHSIDE CHURCH, APD Case No. 53.06-237038J

Enclosed is an *Initial Order*, including a *Notice of Appeal Procedures*, rendered in this case.

Administrative Procedures Division
Tennessee Department of State

Enclosure(s)

**BEFORE THE ADMINISTRATIVE JUDGE ON BEHALF OF
THE TENNESSEE BOARD OF EQUALIZATION**

IN THE MATTER OF:

**RESTORATION SOUTHSIDE
CHURCH,**

Petitioner,

v.

**HAMILTON COUNTY ASSESSOR'S
OFFICE,**

Respondent.

APD Case No. 53.06-237038J

**No./Parcel: 232844 / 155F C 001.02
Tax Year 2022**

INITIAL DECISION AND ORDER

This is an appeal of an Initial Determination on a property tax exemption application. Restoration Southside Church (“Taxpayer”) applied to the State Board of Equalization (“State Board”) for exemption of the subject property by exemption application.¹ The State Board approved 70% of the property as exempt and denied the exemption application for the other 30% of the property based on the available information on June 15, 2023. This appeal ensued.

Administrative Judge Shannon Barnhill, assigned by the Tennessee Secretary of State, Administrative Procedures Division, conducted a hearing via telephone on January 25, 2024. John Riley, Elder; Nate Mackey, Elder; Jessica Anderson, Church Administrator; and Carla Kooistra, Human Resources appeared on behalf of the Taxpayer. Angela Powers and Dan Ratchford, Appraiser, appeared on behalf of the Hamilton County Assessor’s Office (“Assessor”).

ISSUE FOR DETERMINATION

The issue to be determined is whether Taxpayer has proven, by a preponderance of the evidence, that the subject property is entitled to exempt status pursuant to TENN. CODE ANN. § 67-5-212. Based upon the following findings of fact and conclusions of law, it is determined that

¹ The exemption application was not submitted for review.

Taxpayer has met the burden of proof to show that the property is being used for an exempt purpose. The Initial Determination is reversed.

FINDINGS OF FACT

1. The subject property is located at 3146 Broad Street, Chattanooga, Tennessee.
2. The subject property was previously owned by R & H, LLC, before Taxpayer acquired ownership through a transfer of title on March 17, 2022.
3. Taxpayer is a non-profit corporation that was formed on October 15, 2018.
4. The subject property consists of a 27,000 square foot building and parking lot.
5. Taxpayer is a 501(c)(3) tax exempt entity.
6. Taxpayer applied to the State Board on December 20, 2022, seeking a property tax exemption.
7. After Taxpayer assumed ownership of the subject property, Assessor determined that based on the documents provided, 70% of the property, including improvements on the underlying land, would be approved for exemption because that portion was used by the Taxpayer for qualifying religious purposes under TENN. CODE ANN. § 67-5-212(a) including worship and parking.
8. Assessor determined that the remaining 30%, consisting of the 11,400 sq. ft. available for public rental and private purposes, did not qualify for exemption as it was unrelated to the Church's qualifying use and purpose.² To be fully approved for exemption the entire parcel must be "occupied and actually used" by an organization for a religious, charitable, scientific, and/or educational use. TENN. CODE ANN. § 67-5-212(a)(1).

² The space listed for public rental was unavailable on both Wednesdays and Sundays (2 out of 7 days). Therefore, Assessor discounted the portion denied to 30% ($0.4222 \times 0.7142 = 0.3015$).

9. The use of the property has changed from when Taxpayer acquired the property to the time of the hearing. All of the activities overseen by Taxpayer on the subject property are for religious or charitable purposes. At the time of transfer, the previous owner held enforceable contracts for use of the property that included non-exempt purposes. As part of the agreement to purchase the property, Taxpayer honored those contracts.

10. Since all of Taxpayer's activities on the subject property are for religious or charitable purposes it does qualify for exemption pursuant to TENN. CODE ANN. § 67-5-212.

11. Under TENN. CODE ANN. § 67-5-212(b)(3)(A)(ii), because the application was filed after the May 20th deadline and more than 30-days after use began, the exemption is effective as of the date of submission to the State Board. The organization does not, unfortunately, meet the requirements for the special effective date provision contained in TENN. CODE ANN. § 67-5-212(b)(3)(B) because the property was not exempt at the time of transfer, nor was it purchased as a replacement for previously exempt property.

APPLICABLE LAW

Taxpayer, as the party seeking to change the initial determination on its application for exemption, has the burden of proof in this administrative proceeding. Tax exemption statutes are construed liberally in favor of religious, charitable, scientific, and education institutions. *Youth Programs, Inc. v. Tenn. State Bd. of Equalization*, 170 S.W.3d 92 (Tenn. Ct. App. 2004).

TENN. CODE ANN. § 67-5-212 and TENN. COMP. R. & REGS. 0600-08 provide the guidelines and requirements for obtaining property tax exemption status.

ANALYSIS and CONCLUSIONS OF LAW

The subject property consists of a building and parking lot used entirely for religious or charitable purposes. Taxpayer, a non-profit organization, took possession of the property from a non-exempt organization. From the time Taxpayer filed the property tax exemption application


with the State Board to the hearing, neither Taxpayer's legal status nor the character and use of the subject property has changed. However, prior to the application, beginning on the date of purchase for the next approximately nine months some non-exempt events were held at the property as part of the agreement to purchase the property and honor already existing contracts.

DETERMINATION

The Initial Determination by the State Board denying Taxpayer's request for exempt status is reversed. It is **ORDERED** that the appeal is **GRANTED**, and parcel 155F C 001.02 shall be **EXEMPT** for Tax Year 2022, beginning December 20, 2022, the date of application to the State Board, pursuant to TENN. CODE ANN. § 67-5-212(b)(3)(A)(ii).

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **24th day of April, 2024**.



J. SHANNON BARNHILL
ADMINISTRATIVE JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the **24th day of April, 2024**.

NOTICE OF APPEAL PROCEDURES

REVIEW OF INITIAL ORDER

The Administrative Judge's decision in your case **BEFORE THE ADMINISTRATIVE JUDGE ON BEHALF OF THE TENNESSEE BOARD OF EQUALIZATION (the State Board)**, called an Initial Order, was entered on **April 24, 2024**. The Initial Order is not a Final Order but shall become a Final Order unless:

1. **A party files a Petition for Reconsideration of the Initial Order:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration with the Administrative Procedures Division (APD). Your Petition should include your name, the above APD case number, and state the specific reasons why you think the decision is incorrect. APD must **receive** your written Petition no later than 15 days after entry of the Initial Order, which is **May 9, 2024**. A new 15 day period for the filing of an appeal to the State Board of Equalization (the State Board) (as set forth in paragraph (2), below) starts to run from the entry date of an order ruling on a Petition for Reconsideration, or from the twentieth day after filing the Petition if no order is issued. Filing instructions are included at the end of this document.

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied, you may file an appeal of the Initial Order within 30 days after an Order denying the Petition for Reconsideration is sent or 30 days after the 20th day after the Petition is filed if no Order has issued, whichever comes first. *See* TENN. CODE ANN. § 4-5-317.

2. **A party files an appeal to the State Board:** A party may appeal the Administrative Judge's decision to the State Board pursuant to TENN. CODE ANN. §§ 67-5-1501 and 67-5-1506, and TENN. COMP. R. & REGS. 0600-01-.12. TENN. CODE ANN. § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." TENN. COMP. R. & REGS. 0600-01-.12(2) provides that the appeal be filed with the Executive Secretary of the State Board at the address indicated below and that the appeal must "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order; and identify how the rights of the petitioner have allegedly been prejudiced because the administrative findings, inferences, conclusions, or decisions are: (1) in violation of constitutional or statutory provisions; (2) made upon unlawful procedure; (3) arbitrary and capricious or characterized by abuse of discretion; or (4) unsupported by evidence that is both substantial and material in light of the entire record." Any appeal to the State Board should also be filed with APD.
3. **The State Board of Equalization may decide on its own motion to review the Initial Order:** The State Board may affirm, reverse, or modify the Initial Order. The State Board may also remand the case to the Administrative Judge for further proceedings.

If either of the actions set forth in paragraphs (2) or (3) above occurs prior to the Initial Order becoming a Final Order, there is no Final Order until the State Board renders a Final Order.

If none of the actions set forth in paragraphs (1), or (2) or (3), are taken, then the Initial Order will become a Final Order. **In that event, YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER.**

NOTICE OF APPEAL PROCEDURES

STAY

In addition to the above actions, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Initial Order. A Petition for stay must be **received** by the APD within 7 days of the date of entry of the Initial Order, which is no later than **May 1, 2024**. See TENN. CODE ANN. § 4-5-316. A reviewing court may also order a stay of the Initial Order upon appropriate terms. See TENN. CODE ANN. § 4-5-322 and 4-5-317.

REVIEW OF A FINAL ORDER

When an Initial Order becomes a Final Order, a person who is aggrieved by a Final Order may seek judicial review of the Final Order by filing a Petition for Review in the chancery court where the disputed assessment was made or in the chancery court of Davidson, Washington, Knox, Hamilton, Madison or Shelby Counties, whichever county is closest in mileage to the situs of the property. If the property is located in Knox, Hamilton or Shelby County, the Petition for Review may alternatively be filed in the chancery court of Davidson County. See TENN. CODE ANN. § 67-5-1511(b). The Petition for Review must be filed within 60 days of (a) the date of entry of a Final Order; (b) the date the Initial Order becomes a Final Order; or (c) the date of a notice or certificate sent by the State Board when it has taken a final action, whichever date is latest. See TENN. CODE ANN. §§ 4-5-322 and 67-5-1506(b). A Petition for Review of the final decision of the State Board in a contested case involving centrally assessed utility property assessed in accordance with title 67, chapter 5, part 13, shall be filed with the middle division of the Tennessee court of appeals.

The filing of a Petition for Reconsideration is not required before appealing. See TENN. CODE ANN. § 4-5-317. A reviewing court also may order a stay of the Final Order upon appropriate terms. See TENN. CODE ANN. §§ 4-5-322 and 4-5-317.

FILING

Documents should be filed with the Administrative Procedures Division by email *or* fax:

Email: APD.filings@tnsos.gov

Fax: 615-741-4472

In the event you do not have access to email or fax, you may mail or deliver documents to:

Secretary of State
Administrative Procedures Division
William R. Snodgrass Tower
312 Rosa L. Parks Avenue, 6th Floor
Nashville, TN 37243-1102

Documents to be filed with the Executive Secretary of the State Board of Equalization should be filed by email *or* regular mail:

Email: sb.web@cot.tn.gov

Executive Secretary of the State Board of Equalization
State Board of Equalization
425 Rep. John Lewis Way N.
Nashville, TN 37243